

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MERCHANTS MUTUAL INS. CO.,)	
)	Civil Action No. 09-418
Plaintiff,)	
)	Judge Donetta W. Ambrose
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
RICHARD W. BENCHOFF,)	Doc. Nos. 23, 26
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on April 9, 2009, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (Doc. No. 37), filed on May 10, 2010, recommended that Plaintiff's Motion for Summary Judgment (Doc. No. 26) be denied, Defendant's Motion for Summary Judgment (Doc. No. 23) be granted, and Judgment entered in favor of Defendant. Service was made on counsel for all parties. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. No objections to the Report and Recommendation were filed.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:


AND NOW, this 1st day of June, 2010,

IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Judgment (Doc. No. 26) is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (Doc. No. 23) is **GRANTED**. Therefore, Defendant Benchoff is entitled to underinsured motorist's benefits under the Policy issued by Plaintiff Merchants Mutual Insurance Company.

The Report and Recommendation of Magistrate Judge Lenihan (Doc. No. 37), dated May 10, 2010, is adopted as the opinion of the Court.

IT IS FURTHER ORDERED that judgment be entered in favor of Defendant and against Plaintiff, and the case mark closed.


Donetta W. Ambrose
United States District Judge

cc: All Counsel of Record